

Progress, Difficulties and Promotion Strategies of the EU-China BIT Negotiation

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Abstract: There is still development potential in the EU-China bilateral investment. Promoting the EU-China BIT Negotiation can not only deepen the grand picture of the EU-China economic cooperation, but also make a contribution to boosting the global economy growth. From the perspective of system, the EU-China BIT negotiation may lead a new development of international investment rules. Now, the EU-China BIT agreement has come into the substantial stage of the text negotiation. In this stage, realizing equal market access is the core and difficult part of the negotiation. Promoting the EU-China BIT negotiation should promote the high-level bilateral opening of China, to reach the high-level agreement which meets China's reality; the principle that 90% of negotiation preparation is made in China should be implemented to realize the second opening and advance the reform and development; the EU-China investment cooperation mechanism will be established, to promote the opening and facilitation of investment.

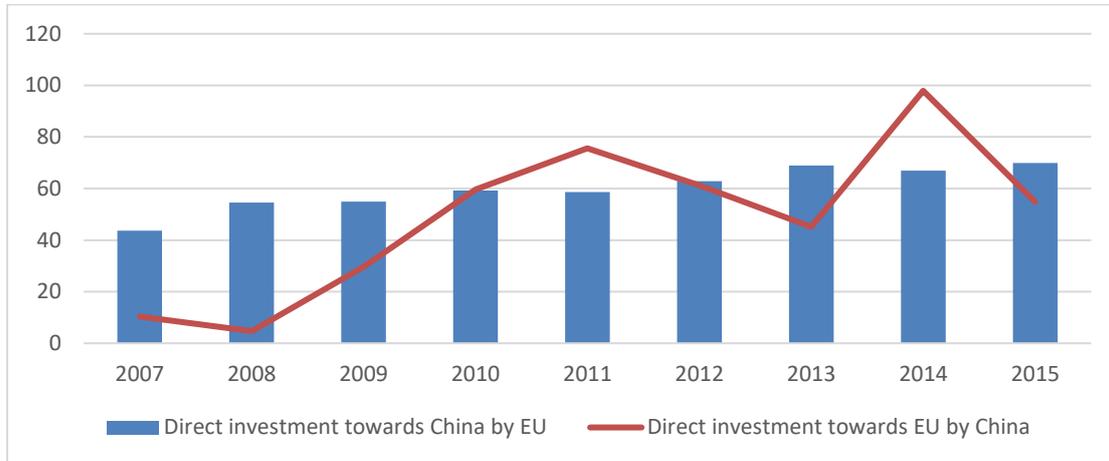
1. Development of the EU-China investment relationship

In recent years, the EU-China mutual investment keeps growing. In 2011 and 2014, the direct investment from China to the EU exceeds the investment backwards (Fig. 1). By the end of 2015, investment stock from China to the EU is \$ 64.44 billion, accounting for 5.9% of the gross investment stock. The EU is the second largest investment destination of China, second only to Hong Kong, followed by ASEAN (5.7%), US (3.7%), Australia (2.6%) and Russia (1.3%).

According to the data published by China's Ministry of Commerce, the investment from the EU to China increased substantially in the first three quarters of 2016. Real investment from 28 EU countries towards China was \$ 8.36, with a year-on-year growth rate of 41.5%. In September 2016, real investment from 28 EU countries towards China was \$ 1.22 billion with a year-on-year growth of 223.5%. By the end of October 2016, 28 EU countries have invested and set up 42,657 enterprises in China with a real investment up to \$ 139.08 billion, accounting for 7.3% of the gross investment (real investment) in China. According to the data from Rhodium Group, China has invested a total of \$ 16 billion towards the EU in the first three quarters of 2016, including \$ 3.8 and 7.5 billion in the second and third quarter respectively.

Fig. 1 Direct investment from China towards the EU and the investment from the EU towards China in 2007-2015

(Unit: hundred million \$)



Data source: Statistical Bulletin of China's Outward Foreign Direct Investment by State Statistics Bureau

2. The EU-China bilateral investment agreement (BIT) is in text negotiation stage

In November 2013, the 16th EU-China Summit was held in Beijing, which indicated the official launch of the EU-China BIT negotiation and the feasibility of the EU-China Free Trade Area's (FTA) construction would be discussed.

More than ten rounds of negotiations have been carried out since the launch of the EU-China BIT negotiation. Currently, the EU-China BIT has been in the substantial stage of text negotiation. In January 2016, the ninth round of the EU-China BIT negotiation has made great progress. First, both parties have made progress in the topic scope; second, both parties have reached a consensus on merging text, laying a good foundation for the negotiation in next stage. At present, the EU and China have reached a consensus on the points below according to the negotiation progress. First, the EU-China investment agreement ensures that the investors of both parties will not be discriminated by the enterprises of the other party by faithfully guaranteeing the investment capital rights so as to further develop the bilateral market access. Second, the agreement puts emphasis on perfecting the regulatory environment for investment, including transparency, licensing and etc., to provide high-level protection for the investors. Third, the agreement will establish rules for the labor and environmental issues involved in foreign investment.

3. The reform of China's foreign investment management system has made great progress

3.1. Negative list in pilot FTA is simplified constantly

China (Shanghai) Pilot Free Trade Zone was established formally on September 30, 2013, and has become the first area to perform "negative list + pre-establishment NT" in China. Three versions of Special Administrative Measures (Negative List) on Foreign Investment Access to the China Pilot Free Trade Zone have been published in 2013-2015. The length of the negative list is gradually shortened (Table 1). Now, relevant negative list has been implemented in other pilot free trade zones.

Table 1: The implementation of the administrative measures of Special Administrative Measures (Negative List) on Foreign Investment Access to the China Pilot Free Trade Zone published in 2013-2015.

	Administrative Measures	Constrains	Prohibitions
2013 Version	190	152	38
2014 Version	139	110	29
2015 Version	122	85	37

Data source: collated according to the Special Administrative Measures (Negative List) on Foreign Investment Access to the China Pilot Free Trade Zone published in 2013-2015.

Special Administrative Measures (Negative List) on Foreign Investment Access to the China Pilot Free Trade Zone (2015 Version) consists of 122 special administrative measures, which can be allocated into 15 classes, 50 articles. Constrains on manufacturing industry has been reduced significantly from 63 articles in 2013 to 17 articles. The restricted measures on food and beverage, construction industry, transportation, storage, postal service and real estate industry have been canceled.

Special Administrative Measures (Negative List) on Foreign Investment Access to the China Pilot Free Trade Zone (2015 Version) reduces the restricted measures on the whole, but refines and expands the constrains on some industries, mainly including the finance industry and the culture and recreation industry. The negative list for the finance industry expands from 5 articles in 2013 to 10 classes, 26 articles. Two prohibitions are added: Being the regular members of stock exchange or the members of futures exchange is prohibited; applying to open security account of A-shares or futures account is prohibited. Without the approval of China's Insurance Regulatory Institution, foreign insurance companies shall not engage in ceded insurance and inward insurance business with their affiliated enterprises. Negative list for culture and recreation industry expands from 12 articles in 2013 to 24 articles. The articles prohibit to invest for establishing news agency, newspapers and periodicals offices, press and news organizations; foreign news agency should set up resident press agency in China and dispatch resident correspondent to China with the approval of Chinese government; the news providing business that the foreign news agencies

provide in China should be approved by Chinese government. In film industry, the prohibitions of investing movie-production companies, film distribution companies and cinemas were added; Chinese government applies licensing system on films shot jointly by Chinese and foreign companies; the construction and operation of cinemas should be controlled by Chinese companies. The release date of films should meet the proportion of release date of home-made movies and imported movies specified by Chinese government. Time of playing home-made movies every year should not be less than 2/3 of the general film playing time every year. The restrictions on handling intangible cultural heritage are added, which prohibit to invest and operate auction enterprises and cultural relics buying and selling enterprises engaging in auction of cultural relics; prohibitions on investing and operating state-owned heritage museums and etc. are added.

3.2. Expansion to seven FTAs from Shanghai Free Trade Area

3.2.1. FTAs expand to Guangdong, Tianjin, Fujian from Shanghai Free Trade Area

On April 20, 2015, China's State Council approved to establish three FTAs in Guangdong, Tianjin and Fujian, and published Special Administrative Measures (Negative List) on Foreign Investment Access to the China Pilot Free Trade Zone ("Negative List" for short). The Negative List listed the special administrative measures on foreign investment access which does not meet the national treatment and other principles in four FTAs. The expansion expands the scope of the negative list from Shanghai FTA to Guangdong, Tianjin and Fujian FTA.

3.2.2. Seven new FTAs have been set up in 2016

In September 2016, seven Pilot Free Trade Zones were set up in Liaoning Province, Zhejiang Province, Henan Province, Hubei Province, Chongqing City, Sichuan Province and Shaanxi Province to form a distinctive and different pilot pattern in a wider range. Inland becomes the main position of a new round of opening.

3.2.3. Negative list will be promoted on the national scale

Before China's publishing the negative list, the foreign investment access is managed according to the Catalogue for Guidance of Foreign Investment, including encouraged class, restricted class and prohibited class, the investments projects apart from these three classes are permitted investment projects. Currently, outside the four FTAs, Chinese government still manages the foreign-funded enterprises according to Law of the People's Republic of Foreign-capital Enterprises, the Law of the PRC on Chinese-Foreign Equity Joint Ventures, Law of the People's Republic of China on Sino-Foreign Contractual Joint Ventures (three laws on foreign investment) and Catalogue for Guidance of Foreign Investment as well as Catalogue of Dominant Industries for Foreign Investment in the Central and Western Regions.

90% of the approval materials have been saved and the time taken for the approval changed to 3 working days from 20 working days after the approval system was changed to filing system since the launching of the negative list in Shanghai in 2013.

In September 2016, Standing Committee of the National People's Congress authorized and decided to revise the three laws on foreign investment, thus the management model of negative list will become laws from the reform measures in pilot FTA. The State Council proposed the consideration on the 22nd meeting of the 12th session of NPC Standing Committee, to revise the regulations on administrative approval of the three laws on foreign investment and Law of the People's Republic of China on the Protection of Investments of Taiwan Compatriots, and adjust the approval of the establishment and change of foreign-funded enterprises beyond the scope of the negative list. It means that China's trial measures on foreign capital attracting in pilot free trade zone will be expanded to the whole nation. The trial measures will become the laws for China to abstract foreign investment.

3.2.4. Constant deepening of the investment facilitation reform

In pilot free trade zones, the foreign investments beyond the negative list, has been changed from applying the approval system to applying the record system. China performs negative list-based "limited access license" system on foreign-funded enterprises in pilot free trade zones. Only the restricted fields in the pilot free trade zones need to be approved; for other fields, the investment requirements are the same with the domestically-funded enterprises, and filing system is applied.

At present, in Shanghai Pilot Free Trade Zone, 90% of the foreign investment projects can apply the filing system. Under the previous approval system, the foreign businessmen should submit the applications, reports, shareholders' resolutions, contracts and articles of association and other materials to the government department face to face, and the materials will be approved one by one. After implementing the filing system, the foreign businessmen are only required to submit the materials through the website, and the comparison with the negative list will be done on the background. Foreign investment projects not included in the negative list should be approved and the accredited list will be provided directly to the foreign businessmen.

Under the filing system, foreign-funded enterprises or their investors fill in and submit the filing information and materials online through the filing system; the competent commerce department ("filing institution") should complete filing within 3 working days, and publish the filing results through the filing system. The establishment filing of foreign-funded enterprises should be handled before issuing the business license or within 30 days after issuing the business license; the change filing of foreign-funded enterprises should be handled within 30 days after the change. Filing is not the prerequisite for business registration. After the filing, enterprises can choose whether to get the filing receipt. The reform substantially simplifies the foreign-funded enterprise handling procedure, and effectively improves the level of

investment facilitation.

4. Realizing equal market access is the difficulty of the EU-China BIT negotiation

The EU-China BIT is the first investment agreement of the EU as a bloc after negotiation which relates to the upgrading of the EU-China economic cooperation strategy. The EU is inclined to adopt high-level investment rules. The biggest difficulty of the EU-China BIT negotiation is the market access. As the auxiliary condition of market access rules, traditionally Europe is accustomed to putting forward stricter standard on human rights, intellectual property, environmental protection, labor welfare and other aspects.

The EU proposes that “an equal market relationship” should be established between the EU and China, which means that European and China's enterprises should share equal market access on the market of the other party. The EU hopes that China can further open its market, especially reduce the restrictions in transportation, communication, medical service, logistics, commercial service and other industries so as to reduce the barriers in market access and discriminations on foreign-funded enterprises. The priority problem which shall be solved in the EU-China BIT negotiation is to what extent that the EU market should be open to Chinese investors and to what extent should Chinese market be open. Negotiation on the "negative list" is the most important in the EU-China BIT negotiation. Both China and the EU should have more patience on confirming the negative list.

4.1. Negative list is still relatively long

The number of articles in China's Special Administrative Measures (Negative List) on Foreign Investment Access to the China Pilot Free Trade Zone is still relatively large. On viewing the number of the articles on the negative lists of various countries, the numbers of articles on negative lists of the US and Australia are small, and the number of articles in that of Japan is large. However, on the whole, the numbers of articles on negative lists of various countries are small, and the total item number is less than 100 or slightly more than 100 in the three annexes. Especially, there are only 36 articles on the negative list of the US. China's Special Administrative Measures (Negative List) on Foreign Investment Access to the China Pilot Free Trade Zone (2015 Version) contains the restricted measures of 15 classes, totally 122 articles, simply covering the existing restricted measures, which is equivalent to Annex I of BIT agreement negative list. It does not include the restricted measures that may become stricter in the future, which is equivalent to Annex II of BIT agreement negative list.

4.2. There are many restrictions in China's manufacturing industry

There are very few restricted measures on the manufacturing industry on the negative lists of the developed countries, such as the US. China's Special Administrative

Measures (Negative List) on Foreign Investment Access to the China Pilot Free Trade Zone (2015 Version) has significantly reduced the restricted measures on the fields of manufacturing industry, mainly including 8 industries, i.e. aviation, shipping, automobile, rail transit equipment, communication equipment, mineral smelting and rolling, medicine, and other manufacturing industry fields. Restricted measures on manufacturing industry are mainly on stock rights and business.

4.3. There are many restrictions on the stock of foreign investors

There are no stock restricted clauses on specific industries on the negative lists of developed countries, such as the US and Australia. Negative lists of developing countries, such as Vietnam, reserve part of stock proportion restrictions, but with validity period. China pays attention to the restriction and management of foreign investments' access for a long time. Many stock restriction clauses are specified in domestic laws, e.g. the restriction clauses in Catalogue for Guidance of Foreign Investment. Some stock restriction measures are still specified in Special Administrative Measures (Negative List) on Foreign Investment Access to the China Pilot Free Trade Zone, including various fields in manufacturing industry and service industry.

4.4. The laws and regulations in BIT agreement requires high transparency

BIT negative lists of various countries list the domestic legal basis for each restricted measure. In other words, the sources of domestic laws are listed in details in the "Measure" column, including the name, specific clauses, effective date and etc. of the laws and regulations; the concrete contents and detailed requirements of the restricted measures should be listed in the "Description" column. The negative list in the China Pilot Free Trade Zone has no sources of laws and content descriptions, and there are special administrative measures without specific restrictions. For example, these measures such as "production of satellite television broadcasting ground receiving facilities and key components is restricted" and "construction and operation of large theme parks is restricted" has no clear measures. There are 55 articles have no specific restrictions in the "Negative List" (2013 Version), accounting for 29%; 25 articles have no specific restrictions in 2014 Version, accounting for 18%; and 8 articles without specific restrictions in 2015 Version, accounting for 7%.

4.5. There are differences of the standpoints between some China's policies and the EU's "fair competition"

The EU explicitly includes "competitive neutrality" related clauses in free trade agreements such as CETA. The clauses have been the concerning focus of the EU enterprises' investment in China. On viewing the relevant clauses in CETA, in principle, the EU is very likely to require China to guarantee that the support policies given to the state-owned enterprises will not cause investments from the EU suffering from non-discriminatory treatments, and the EU strictly restricts China's support policies on state-owned enterprises.

5. Ideas of advancing the EU-China BIT negotiation

5.1. Ideas

5.1.1. Promoting high-level two-way opening and reaching the high-level EU-China BIT

For China, reaching the EU-China BIT is conducive to China's participation in new international investment rules; for the EU, reaching the EU-China BIT is conducive to realizing the EU's external "common investment policies". Therefore, it is the common goal of the EU and China to promote high-level two-way opening and reach the high-level BIT.

It is the China's core interests to promote reform with opening and advance the high-level reform through high-level opening to finally realize high-quality development. Market access is bidirectional, so China's high-level opening requires the EU's high-level opening. In the negotiation, both parties should respect the interest demands of the other side rather than the EU's unilaterally charging on the offer of China's negative list. Similarly, China's high-level opening adapts to China's development level, and China's high-level reform should take domestic laws as the prerequisite and basis, and shall not break away from the existing legal framework.

To be specific, the high-level BIT negotiation should reflect in the following aspects:

First, the EU-China BIT negotiation should focus on the expansion of opening of the service industry. The service industry is the stress of China's further opening to the outside world and also the core area of the negative list negotiation. China's service industry should be included in the negative list according to the different levels of opening. First, fields which are not far from the international advanced level and whose market competitions are sufficient should be the key opening fields, and restricted measures should be reduced in such fields, mainly including tourism, software, R&D and design, engineering service, freight road transport and etc. Second, the fields which have basically reached sufficient competition, whose opening degrees are not that high and with many policy and regulation restrictions should be viewed as actively expanded fields, including nursery and pension, accounting audit, architectural design and est., and only part of necessary restricted measures should be reserved. Third, fields which have not reached sufficient competition, and whose market opening degree is low, with more policy and regulation restrictions and more complex conditions, including finance, telecommunication, domestic airways, culture, education and etc. should be opened with discretion.

Second, "equal market access" should be actively advanced. From the practical experience of CETA, the EU's negative list, especially the negative list for the market access of the service industry, includes the restricted measures on the levels of the EU and its member countries. For example, at the EU level, it is required that some

purchasers can only purchase the agricultural products produced in the EU, and that the vessels used for inland water transport shall be those owned by the citizens or legal persons of the EU member countries; at the country level, it is explicitly stipulated that non-EU citizens or enterprises should be specially approved for purchasing the real estate of Austria, and that the foreign lawyers can carry out business in Belgium only when they live in Belgium for more than 6 years and get the certificates issued by minister of foreign affairs. Therefore, China should realize "equal market access" at the levels of both the EU and its member countries after considering the differences between the development stages of China and the EU while following the principle of "equal market opening": some fields of general manufacturing industry on which the EU member countries basically fully open to invest should be comprehensively opened except for some special fields, such as rare earth smelting, rare and precious traditional Chinese medicine processing and etc. However, culture, education, transportation, telecommunication and other service fields of different degrees of protection by the EU member countries should fully consider the opening condition of China and the EU member countries, and advance "equal opening" among the member countries.

Third, the connotation of "competition neutrality" is complex. It mainly involves two aspects: One is that any enterprise shall not adopt relevant business conducts violating the competition fairness in the trade activities, such as monopoly; the other is that the government shall not give discriminatory treatments to any specific types of enterprises in the commercial behaviors. It is suggested that basically current "competition neutrality" related clauses should be applied in commercial activities of enterprises, and undiscriminating constraints should be implemented on state-owned enterprises, private enterprises and foreign-funded enterprises. In terms of governmental discriminatory treatments, national conditions of developing countries should be properly considered, and it should be explicitly defined that state-owned enterprises are free from the restrictions by "competition neutrality" principles when engaging in non-commercial behaviors.

5.1.2. The effect of the EU-China BIT lies in the deepening of domestic reform

From the practical experience, the basis of bilateral investment agreement negotiation is the laws and regulations of both parties. Therefore, it can reach the high-level bilateral investment agreement only by actively promoting the reform of the domestic economic system so that both parties can reach a basic consensus on the ideas and rules of the laws and regulations. China's past opening experience shows that 90% force should be placed on deepening domestic reform.

First, China's opening should be actively advanced in pension, medical service, education and other fields. The national treatments should be applied for domestic and foreign investments, and few fields related to national security comprehensively open

general manufacturing industries.

Second, the investment management system reform should be accelerated, and pre-approval affairs required for project construction approvals or records should be comprehensively reduce. The pre-approval procedures and the supervising procedures during and after the approval should be the same for domestic and foreign investment.

Third, the system reform of state-owned enterprises should be advanced. The direction (market-oriented reform) and the key (establishing modern enterprise system) should be firmly gripped, and the mixed ownership reform should be actively and reliably advanced so that the state-owned enterprises can become the independent subject of market.

5.1.3. Establishing the EU-China investment cooperation mechanism and implementing the investment liberalization and facilitation

China is actively advancing the reform of investment facilitation. The reform of negative list investment access mode in pilot free trade zones promoted throughout the whole country will substantially simplify the handling procedure for the foreign-funded enterprises and practically improve the level of investment facilitation. At the same time, China and the EU advance the bilateral investment opening and the investment facilitation from the prospective of investment system and mutual recognition of rules, and explore and establish the EU-China investment cooperation mechanism in the fields such as transparency, facilitation of personnel exchange, capacity building, regulatory consistency and etc.

5.2. Advance the scheme design of the EU-China BIT negotiation

In the BIT negotiation, the EU's interest demands on China mainly include China's endowing the EU investors with a greater market access, strengthening the fair competition, reaching a high-level and unified investment protection, and including environment, labor, enterprises' social responsibility and other relevant standards in the investment agreement. China's interest demands mainly include relatively complete negative list and ample exception clauses, to reduce the security risk and supervision difficulty of foreign investment; the investment barriers that China's enterprises face in the EU should be reduced, especially de-politicization of national security review, and improving the transparency; the safety of the overseas investment of China's enterprises should be protected; and the investment with state-owned enterprises as the subject of market should get the due regard and approval.

Now China is actively advancing the market reform and opening. The negative list is first implemented in existing pilot free trade zones, and then implemented throughout the whole nation through legislative procedure. If radical strategies were taken, it requires that the domestic reform should make bigger strides on the basis.

From the prospective of the final clauses, China and the EU should advance the

opening of market access substantially. China promises full market opening in the fields of manufacturing industry and service industry, and is willing to adopt more simplified and less restricted rules on the foreign investment on the negative list. With respect to fair competition, China implements the pre-access national treatment throughout the whole country, and treat the foreign-funded enterprises and local enterprises equally.

It should be seen that the EU-China BIT negotiation will not be accomplished in an action. On the one hand, China's domestic reform is advanced gradually, which requires certain legal procedure and time. On the other hand, China promises high-level market opening, and will charge appropriately for the opening of investment market of the EU and providing China's enterprises with a fair competition environment. Negotiation of both parties will last for a longer time.

It is suggested to advance the EU-China BIT negotiation step by step: identifying the early objective, medium term objective and final objective according to the actual situation. Under specific market opening commitment level defined by different objectives, appropriate realization deadlines should be provided for different objectives, which is conducive to reaching a high-level bilateral investment agreement between both parties.

The design of objectives in three periods of China in several key fields can be set based on the road map in Exhibit 1.

6. From BIT to FTA - deepening the direction of the EU-China trade and investment cooperation

6.1. Relationship between the EU-China BIT and FTA

6.1.1. More and more BIT content is integrated in FTA agreement

Now, the new generation of international trading rules cover many fields such as trade, investment, service, supervision and etc., involving the investment protection, market competition policy, government system transparency, prevention of business monopoly and other aspects. With respect to investment, the BIT negotiation contents such as investment opening, investment promotion, rights protection and etc. are more and more integrated in the FTA negotiation. Viewing the development trend of global trade and investment agreement, an integration trend appears between the international investment agreement and the international trade agreement. International investment rules have made more in-depth and extensive process in FTA. The international investment agreement has a more extensive scope, especially concerning the transparency and rule formulation of health, environment, labor interest, national safety and information exchange, as well as the settlement mechanism of disputes between investors and the country. The above clauses are the important contents of the newly-signed FTA agreement recently. From the NAFTA,

investment protection clauses begin to be presented in FTA, and become common clauses in FTA of many countries such as the US, the EU, China, Canada and etc.

At present, a total of 2,953 multilateral or bilateral investment cooperation agreements are signed throughout the world, and the clause content, protection level and market opening degree of the investment agreements are different. Fragmentized tendencies exist in the global investment agreements. From the quantity, in recent years, the number of BIT agreements signed is decreasing. In 2004, 73 new BIT agreements were reached globally; in 2011, 47 new international investment agreements were signed; and in 2015, only 22 new BIT agreements were signed. The main form of economic agreements between the main economies all over the world is FTA.

From the prospective of the EU, integrated IIA (International Investment Agreements) policy was formally implemented in September 2011. The EU Council authorized the EU Commission to include the investment protection clauses in FTA negotiation for the first time. Up to now, the EU has carried out the FTA negotiation including investment protection clauses with Canada, India, Singapore, Egypt, Monaco, Jordan, Japan, the US, ASEAN, Vietnam, Malaysia and other countries and regions successively. Integrating the BIT negotiation in the FTA agreement is also the main mode for the EU to sign the trade investment agreements.

6.1.2. The BIT agreement can lay important foundation for the basis of the FTA agreement negotiation.

From the condition that major countries sign FTA agreements and BIT agreements, the FTA agreements can include negative list, national treatment, investment dispute settlement mechanism, investor protection and other clauses promised by both parties in BIT agreements. Signing BIT agreements means that both parties have reached a consensus on the relevant rules in investment section of FTA agreements, which lays a foundation for signing FTA agreements thereafter.

In January 2016, China and the EU announced to broaden the scope of the bilateral investment agreement negotiation, advancing the material text negotiation on the basis of the consolidated version of agreements. At present, the EU-China BIT negotiation still faces a lot of difficulties, and China and the EU have obvious divergences in the laws and regulations, market protection, investment nature and orientation, protection of intellectual property, government procurement, the opening proportion of industries to the foreign investment and etc. Some problems are related to the opening and liberalization of the trade and other fields, which can be solved under the FTA framework uniformly. To adapt to demands of both the EU and China, the EU-China BIT negotiation can be duly upgraded to the FTA negotiation. Promises agreed by both parties in the negotiation of BIT agreements can be the basis of the negotiation of the later FTA agreements.

6.2. Development path from the EU-China BIT to FTA

6.2.1. Advancing the negotiation of the EU-China BIT agreement in conservative strategies

Advancing the EU-China BIT negotiation and the EU-China FTA negotiation requires a greater opening degree and a greater reform of Chinese market, and a longer time negotiation is needed to come to an agreement. Under such circumstance, it is suggested to synchronize the negotiation of the EU-China BIT and the study of the EU-China FTA agreement, and conduct merger negotiation at the right time. The specific development path is as following:

6.2.2. Sign framework agreement

In 2017, China and the EU negotiate to sign and establish the FTA framework agreements, and specify the following aspects as soon as possible, including negotiation objective, main negotiation content, time frame of negotiation, negotiation organization, early harvest plan and etc. China and the EU try the best to reach the early harvest objective of the EU-China BIT negotiation in this period.

6.2.3. Complete negotiation in key fields

In 2018-2020, both parties will complete negotiation in main fields, such as goods trade, service trade and etc., and accelerate the harvesting of the early projects achievements. The EU countries have different development levels and distinctive situations of trade towards China, so the distinctive exception list (sensitive products) and transition period with different EU member countries can be set in the agreements. For contents which are difficult to reach agreements at present, "gradual liberalization" clauses can be added, and a more open promises negotiation schedule will be provided explicitly. The negotiation can be smoothly advanced through the method of establishing first and upgrading gradually. At the same time, the medium term objective of the EU-China BIT negotiation should be reached as soon as possible, merging the relevant clauses in the EU-China FTA negotiation, to realize the unification of both negotiations.

6.2.4. Reach the EU-China FTA agreement

After 2020, both parties will achieve the long-term objective of the EU-China BIT negotiation under the EU-China FTA negotiation framework. Both parties will sign the comprehensive agreement and complete domestic procedure to formally establish the EU-China FTA. The EU-China FTA agreement will significantly reduce the tariff and non-tariff barriers of the EU-China trade, significantly improve the level of trade investment facilitation, and lay a solid foundation for the institutionalization of the EU-China economic and trade cooperation.

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Appendix 1 Design of road map for deepening the reform and opening up of relevant key fields of the EU-China BIT agreement

	Before 2018	Before 2020	"The 14th Five-Year Plan" Period
Bilateral investment access	For manufacturing industry fields other than gene, rare and precious animals and plants, extremely important national strategic resources will realize a comprehensive national treatment on the foreign investment; further reduce the recessive market access barrier of consultation, law and other service industry fields; moderately reduce the restrictions on the access of education, medical service, health, pension and other fields; try to establish a unified and normative supervision system in technical standard, industry norms and other aspects.	Implement national treatment in education, medical service and other fields on the access level, and establish unified supervision rules for domestic and foreign investment organizations; expand the opening level of culture creativity related industries, and gradually complete the culture industry regulation and supervision system meeting China socialist culture and the spirit of Chinese features.	The opening level of service trade and investment exceeds South Korea and Japan, basically forming the supervision system which can effectively maintain national security in the environment of fair access to market.
Environment	Establish the responsibility investigation system in environmental law enforcement in accordance with the international practice standardized and transparentized environmental law enforcement procedure.	Form the environmental issue consultation mechanism in which various parties can effectively participate in, and formulate the standardized laws and regulations for fields such as illegal felling and overfishing.	Promote to form international rules considering the objective development demands of various countries on the basis of environment protection.
State-owned enterprises and competition policy	Complete the reform of corporate system state-owned enterprise, and form a sound national asset management system. The category classification of state-owned enterprise is basically finished.	Cancel the special preferential policies on state-owned enterprises, the special subject in fully competitive market-oriented management fields; from technological innovation, human resources allocation, strategical resources priority and etc. basically form a new type of support system for state-owned enterprises in key fields and those bearing major tasks, substantially reduce the direct fiscal subsidy and financial support for enterprises; standardize, legalize and transparentize the direct subsidies for public welfare state-owned enterprises.	Comprehensively form the market rules system satisfying fair market access and favoring the state-owned enterprises to become stronger and better.

Data source: collated by the author.